

- (1) Whether claimant suffered accidental injury arising out of and in the course of her employment with respondent on the date alleged.
- (2) What, if any, is the nature and extent of claimant's injury and/or disability?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary record and, in addition, the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The Administrative Law Judge denied claimant benefits in this matter finding claimant's accident suffered while en route to a meeting of the Kansas State Nursing Association did not arise out of and in the course of her employment with respondent Pittsburg State University. Claimant, the president of the Kansas State Nursing Association, had requested that she be excused from her work on the date of accident in order to attend this meeting of the Kansas State Nursing Association. She received no reimbursement from the respondent for this trip but did receive partial reimbursement from the Kansas State Nursing Association. Respondent did not furnish claimant a car and paid no expenses for this trip. The respondent has no affiliation with the Kansas State Nursing Association. Claimant acknowledged she was not required by respondent to belong to this organization, respondent received no benefit from claimant's affiliation with this organization and, in fact, claimant's membership in this organization predated her employment with the respondent.

K.S.A. 44-501 and K.S.A. 44-508(g) require that claimant prove by a preponderance of the credible evidence her entitlement to benefits before an award of compensation can be made. See also Box v. Cessna Aircraft Co., 236 Kan. 237, 689 P.2d 871 (1984). The Administrative Law Judge, in denying claimant benefits, found the claimant had failed to prove by a preponderance of the credible evidence that the injury suffered on February 1, 1990 arose out of and in the course of her employment. The Award of the Administrative Law Judge, in denying these benefits to claimant, is herein affirmed by the Appeals Board. Absent some connection between claimant's injury and her employment with Pittsburg State University, benefits cannot be granted. The trip during which claimant suffered her injury was for the purpose of attending the Kansas State Nursing Association meeting and provided no benefit to the respondent.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge John D. Clark dated October 6, 1994 wherein claimant is denied benefits against the respondent should be, and hereby is, affirmed.

The fees necessary to defray the expense of the administration of the Workers Compensation Act are hereby assessed 50 percent against the respondent and 50 percent against the Workers Compensation Fund per the earlier stipulation of the parties, to be paid as follows:

Shaun J. Higgins Transcript of Stipulations	Amount Unknown
Hostetler & Associates, Inc. Deposition of Edward J. Prostic, M.D.	\$269.50

Shaun J. Higgins
Deposition of Joan Sheverbush

Amount Unknown

Hostetler & Associates, Inc.
Deposition of John B. Redford, M.D.

\$369.40

IT IS SO ORDERED.

Dated this ____ day of April 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Fred Spigarelli, Pittsburg, KS
William L. Phalen, Pittsburg, KS
Timothy D. Clover, Chanute, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director